

**Docket No. 05-015-1**

Regulatory Analysis and Development, PPD  
Animal Plant Health Inspection Service  
Station 3C71,  
4700 River Road, Unit 118  
Riverdale, MD 20737-1238

July 6, 2005

Please include the following comments as submitted by Intertribal Agriculture Council in the review of the proposed “National Animal Identification System (NAIS) Draft Strategic Plan 2005 to 2009.”

The **Intertribal Agriculture Council**, the only Indian agriculture organization mandated by order of the US Congress, is a 501 (c) 3 non-profit organization made up of dues paying federally recognized Indian Tribes from all 12 Department of Interior Bureau of Indian Affairs regions and **Kansas Cattlemen’s Association**, a producer based, non-profit organization representing over 2000 cattle producers in the Midwest respectfully submit the following comments.

American Indians own approximately of 2.8 million head of cattle. Comprehensive demographics or even estimates have not been tabulated for Indian ownership of sheep, goats, chickens, hogs or horses produced for human consumption. However the inclusion of the most conservative estimates of these livestock numbers with Indian cattle ownership increases the number of livestock subject to *Animal Identification* procedures near the **4.5** million mark. Adding Indian livestock ownership with the 48 million acres of Indian owned land utilized for agriculture production equates to production levels and land mass larger than a majority of states. Kansas Cattlemen’s Association is uniquely positioned in a state that is a net importer of outside cattle. The state of Kansas annually feeds over twice as many cattle as we have cows within our state, so the ability to reduce, minimize or eradicate disease is of paramount importance to us.

In regards to our review of the USDA Animal Plant Health Inspection Service issued “National Animal Identification System (NAIS) Draft Strategic Plan 2005 to 2009.” We offer the following comments:

Page 2, “Stages of Development: Much of the responsibility for delivering the program remains at the State level.”

Page 18, “Qualifications: To qualify for Stage 1 recognition, the state would have met the following standards: 1. A State animal identification committee composed of representatives of major segments of the farm animal industry is formed and functioning. Membership could include, but not be limited to the following stakeholders: e. State and Federal animal health agencies and Tribal organizations;”

Comment: Both of these statements infer that Tribes will only be participatory if they work through State government entities. Every President since Nixon has proclaimed the special relationship federally recognized Tribes have with the Federal Government. President Bush made his proclamation on September 14, 2004, outlining the consultative process his administration would utilize in working with American Indian Tribes. Process for this plan

violates the Presidents Proclamation on Consultative Policy. Plan violates centuries of government to government relationships between Tribes and the Federal Government by making Tribes subservient to states in the NAIS Program. Tribes look to the Federal Government. States look at Tribes as though they are a federal problem. Many state/Tribal relationships are antagonistic at best.

Recommendation: Historical policies dictate that Federally Recognized Indian Tribes be recognized as being equivalent to States in administration of federal programs. Thus, every place within the “Draft Strategic Plan” that refers to States should be changed to read **States and Tribes.**

Page 8, “Producers that have registered their premises may obtain official identification devices with the Animal Identification Number (AIN).

Comment: This statement infers that those producers fortunate enough to be participatory in a Pilot program will be first priority when Stage II is entered. What about the producers that is ready, willing and able to participate but have not been invited to be a part of a pilot program? How do they register their premise, especially if they happen to reside on an Indian Reservation?

Recommendation: Level the playing field by insuring that producers have an opportunity to participate. Distribute the funding equitably to ensure more entities have the opportunity to register premises and make it convenient for producers that do not have access to the internet and do not live in an area where the use of road names or numbers is common. Make access to global positioning systems readily available.

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Question: Is a mandatory identification program necessary to achieve a successful animal disease surveillance, monitoring and response system to support Federal animal health programs? Please explain why or why not.

Response: Yes a mandatory program is necessary. If the system is not mandatory it will be implemented similar to the states that have brand laws and those that don't, some states will and others will not. Implementation, coordination, record keeping and even the economic benefit will not be realized without a mandatory system.

Question: At what point and how should compliance be ensured?

Response: Compliance with NAIS requirements would be best enforced by enforcement agencies such as State Department of Livestock, Livestock Inspectors, local law enforcement, or such agencies. Fair managers or sale barn managers do not usually have enforcement responsibility or experience thus enforcement would really depend on the personalities of those managers.

Question: Do you think this is a viable option, i.e., can markets or other locations successfully provide this service to producers who are unable to tag their cattle at their farms?

Recommendation: Yes this is a viable option if prices for the electronic tags are standardized similar to the cost of a brand inspection. All efforts must be taken to prevent this service

becoming a method of unfairly gouging the producers. Sale barns, feedlots, points of inspection would be the ideal locations.

Question: In what manner should compliance with those requirements be achieved?

Response: For livestock not previously tagged as a result of co-mingling, cattle should be tagged at the time of the first ownership change transaction. The buyer should assume the responsibility of tagging and reporting the animals to NAIS. Realizing fully that buyers are going to offer incentives to producers that tag, record and report thus, those producers will take advantage of the incentives if economically feasible. For the producers that do not participate in those transactions, the buyer at the first ownership change should be responsible.

Question: Who should be responsible for meeting those requirements?

Response: The buyer at the first change of ownership transaction. It is our recommendation that some sort of notice be sent to the seller, notifying him that this action has been carried out.

Question: How can these types of transactions be inputted into the NAIS to obtain the necessary information in the least costly, most efficient manner?

Response: The buyer is the individual who is most likely to have access to the computer technology to record and report such transactions, thus requiring them with this responsibility is most logical.

Question: Is this recommendation adequate to achieve timely traceback capabilities to support animal health programs or should a timeframe (age limit) for identifying animals be considered?

Response: The recommendation to have animals identified anytime prior to entering commerce or being co-mingled with animals from other premises is adequate for present goals.

Question: Are the timelines for implementing the NAIS realistic, to aggressive or not aggressive enough?

Response: Implementation is solely dependent on the Agency and Congress' ability to provide the necessary funding to ensure program implementation that is fair and equitable to **all** producers. Implementation of the NAIS should only be pursued once the funded pilot programs have compiled and analyzed their results. Even since the concept of Animal ID has been proposed there are new and unique applications that must be considered.

Question: What are the most cost-effective and efficient ways for submitting information to the database (entered via the Internet, file transfer from a herd-management computer system, mail, phone, and third-party submission of data)?

Response: Electronic file transfer appears to be the most cost efficient methodology and it should follow the process of earlier responses in that recording should be done with change of ownership or co-mingling and the responsibility should be born by the buyer. It is the responsibility of the NAIS to be all inclusive of different types of data entry. Mail and phone submission are challenging but must be held as options until a robust system is reached.

Question: What specific information do you believe should be protected from disclosure and why?

Response: Data that is stored within the electronic identification (data base) on individual animals must be protected from disclosure. Why? This data could be utilized to impact market price, identify individual producers, and be utilized in retaliatory methods against individual producers.

Question: How could we best minimize the burden associated with these requirements? For example, should both the seller and the buyer of a specific group of animals report the movement of animals or is reporting by one party adequate?

Response: One party is adequate and the buyer should bear the responsibility.

Question: How should a private data base system be funded?

Response: First, there should be several regional depositories for the data held by private entities controlled by a strict set of security standards exceeding those of “top secret” requirements. Access to the data contained therein would be only to those holding security clearances to access the data. Politicians and Political appointees should not have access to the data, only those intimately associated with animal disease control and having the necessary security clearances.

Our recommendation is that in states with higher than average livestock numbers there should be only 3 to 4 states in a region created for data deposit. In states where livestock numbers are below the average then the number of states in a region could be increased.

Private entities wishing to hold the responsibility of data deposition would have to compete for the responsibility within a reasonable realm of financial costs. The federal government should support all costs associated with the data depositories. Livestock organizations, breed organizations, species organizations, packers, wholesalers, retailers should be excluded from eligibility from being a data depository which would further diminish the potential of this data being utilized for economic benefit.

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